

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
JOSEPH TUMINELLO,

Plaintiff,

-against-

AETNA LIFE INSURANCE COMPANY,

Defendants.

-----X  
Civ. Act. No.: 13 CIV 938 (KBF)(JCF)

**NOTICE OF MOTION**

DOCUMENT  
ELECTRONICALLY FILED

**PLEASE TAKE NOTICE** that, upon the Declaration of Wanda Greene Celestine dated July 16, 2013 and Exhibits "A" through "D" annexed thereto, the Declaration of Michael H. Bernstein dated July 18, 2013 and Exhibit "E" annexed thereto, and the accompanying Memorandum of Law, Defendant Aetna Life Insurance Company, by its attorneys, Sedgwick LLP, will move this Court, before the Honorable Katherine B. Forrest at the United States District Court, Southern District of New York, located at 500 Pearl Street, New York, New York 10007, at a date and time to be set by this Court, for an Order pursuant to Rule 56 of the Federal Rules of Civil Procedure dismissing Plaintiff's Complaint, and for such other and further relief as this Court may deem just and proper.

Dated: New York, New York  
July 19, 2013

Respectfully submitted,

/s/Michael H. Bernstein  
MICHAEL H. BERNSTEIN (MB 0579)  
JULIE KIM (JK 5700)  
SEDGWICK LLP  
225 Liberty Street, 28<sup>th</sup> Floor  
New York, New York 10281-1008  
Telephone: (212) 422-0202  
Facsimile: (212) 422-0925  
Sedgwick File No. 00322-008165  
*Attorneys for Defendant*

To:

Scott Riemer  
Riemer & Associates LLC  
60 East 42nd Street, Suite 1750  
New York, New York 10165  
(212) 297-0700  
sriemer@riemerlawfirm.com

Marc S. Whitehead  
Marc Whitehead & Associates, LLP  
5300 Memoriam Drive, Suite 725  
Houston, Texas 77007  
(713) 228-8888  
marc@marcwhitehead.com

**CERTIFICATE OF SERVICE**

I, Julie Kim, hereby certify and affirm that a true and correct copy of the attached **NOTICE OF MOTION** was served via ECF and Regular Mail on July 19, 2013, upon the following:

Scott M. Riemer  
RIEMER & ASSOCIATES LLC  
60 East 42nd Street, Suite 1750  
New York, New York 10165  
Tel.: (212) 297-0700  
Email: sriemer@riemerlawfirm.com

Marc S. Whitehead  
MARC WHITEHEAD & ASSOCIATES, LLP  
5300 Memorial Drive, Suite 725  
Houston, Texas 77007  
Tel.: (713) 228-8888  
Email: marc@marcwhitehead.com

/s/Julie Kim  
\_\_\_\_\_  
JULIE KIM (JK 5700)

Dated: New York, New York  
July 19, 2013